



Original Answer to the lawsuit on February 6, 2017. Exhibit 2, 2F. Plaintiffs commenced suit against Travelers for underinsured motorist “(UIM)” benefits under Plaintiffs’ employer’s commercial auto policy. Exhibit 2C.

1.2 Plaintiffs initially filed suit against Thomas A. Edwards and Royalty Well Services, Inc. (“Royalty Well”) in the 143rd Judicial District Court, Cause No. 15-09-23690-CVW. Exhibit 2, 2A. Plaintiffs allege that Edwards and Royalty Well are underinsured. Exhibit 2C. Plaintiffs ultimately settled their claims against Edwards and Royalty Well prior to starting litigation against Travelers. Exhibit 2, 2C, 2D, 2E.

1.3 Simultaneously with the filing of this Notice of Removal, attached hereto as Exhibit “1” is the Index of Matters Being Filed that clearly identifies each document and indicates the date the document was filed in state court. Attached as Exhibit “2” is a copy of the docket sheet. All documents filed in the state court action are attached as Exhibit “2A” thru Exhibit “2I” as identified on the index. Attached as Exhibit “3” is additional evidence also filed in support of Travelers’ Notice of Removal.

## **II.**

### **BASIS FOR REMOVAL**

2.1 This Court has original jurisdiction over this State Court Action, pursuant to 28 U.S.C. §1332(a), because it is a civil action between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

2.2 The Plaintiffs seek monetary damages over \$100,000.00 each but not more than \$1,000,000.00. See Exhibit 3, 2I. Accordingly, the amount in controversy in this matter meets and exceeds the federal jurisdictional minimum of \$75,000, exclusive of interest and costs.

2.3 Plaintiffs Matthew S. Baca and Eric Rivera were at the time of the filing of this action, have been at all times since, and still are individual resident citizens of Texas. *See* Exhibit

2C. For diversity purposes, an individual is a citizen of the state of his domicile, which is the place of his true, fixed, and permanent home and principal establishment, to which he has the intention of returning home whenever he is absent therefrom. *See Stine v. Moore*, 213 F.2d 446, 448 (5th Cir. 1954). Accordingly, Plaintiffs Baca and Rivera are citizens of Texas.

2.4 On the date of this removal and at all relevant times, including at the time the lawsuit was filed and at all times since, Defendant Travelers Property Casualty Company of America is a citizen of the State of Connecticut because it is a Connecticut corporation with its principal place of business in the state of Connecticut.

2.5 Because the amount in controversy exceeds \$75,000 and Plaintiffs are citizens of Texas while no defendant is a citizen of Texas, this Court has original jurisdiction over the present action pursuant to 28 USC §1332. Therefore, removal is proper.

2.6 This action may be removed to this Court pursuant to 28 USC §1441(a), which allows for the removal of any civil action brought in the state court of which the District Courts of the United States have original jurisdiction, by the defendant, to the District Court of the United States for the district and division embracing the place where such action is pending.

2.7 This suit was not initially removable when Plaintiffs filed their initial pleading against Defendant. Exhibit 2C. Travelers could not ascertain the amount in controversy from Plaintiffs' initial pleadings. *Id.* However, Travelers timely and properly now files this Notice of Removal within 30 days of when it could finally ascertain the amount in controversy and the case became removeable. *See* 28 U.S.C. §1446(b); Exhibit 3, 2C, 2I.

2.8 Travelers files this notice of removal within 30 days of receiving a copy of an amended pleading, motion, order, or other paper from which the defendant can ascertain that the case has become removable. 28 U.S.C. §1446(b)(3). Travelers could only first ascertain that the

case had become removeable when it received Plaintiffs' Responses to Request for Disclosure on October 26, 2017. *See* Exhibit 3 (alleging that Plaintiff Baca's economic damages exceed \$101,013.40 and Plaintiff Rivera's economic damages exceed \$102,038.35); *see also* Exhibit 2I (Section X, Plaintiffs' Third Amended Petition filed on September 27, 2017 and served on Defendant September 29, 2017 alleging for the first time that Plaintiffs' damages do not "exceed \$1,000,000....").

2.9 This Notice of Removal is being filed within one year of the commencement of this action against Travelers. *See* Exhibit 2C. Plaintiffs commenced their action against Travelers on January 5, 2017. Exhibit 2, 2C. Alternatively, this case falls within an exception to the one-year limit because Plaintiffs acted in bad faith to prevent Defendant from removing the suit. 28 USC §1446 (c)(1). Plaintiffs acted in bad faith by adding Travelers to the State Court Action against Edwards and Royalty Well even though Plaintiffs had already settled their claims against them and dismissed them from the lawsuit. Exhibit 2C, 2D, 2E. This Notice, therefore, is timely filed pursuant to 28 USC §1446 (b) and 1446(c)(1).

### **III.** **PROCEDURAL REQUIREMENTS**

3.1 In accordance with 28 USC section 1446 (D), Defendant will promptly give written notice of this Notice of Removal to Plaintiffs through counsel of record and will simultaneously file a copy of their Notice of Removal in the 143rd Judicial District Court, Ward County, Texas.

3.2 Defendant reserves the right to amend or supplement this Notice of Removal.

3.3 The following are included in the Appendix filed contemporaneously with this Notice of Removal:

- (a) an index of all documents that clearly identifies each document and indicates the date the document was filed in the State Court Action;
- (b) a copy of the civil cover sheet in the State Court Action;
- (c) a copy of each document filed in the State Court Action, except discovery material, arranged in chronological order according to the state court filing date; and
- (d) a separately filed JS-44 Civil Cover Sheet.

For the above reasons, Defendant gives notice of the removal of the State Court Action to this Court and respectfully requests that this action proceed before this Court as though it had originally been instituted in this Court.

Respectfully submitted,

/s/ Jacquelyn Chandler

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**ATTORNEYS FOR DEFENDANT  
TRAVELERS PROPERTY CASUALTY  
COMPANY OF AMERICA**

**CERTIFICATE OF SERVICE**

I certify that on October 27, 2017, the foregoing document was served on all counsel of record via electronic service and/or facsimile and/or first class mail.

Mr. Jon Hanna  
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/s/Jacquelyn Chandler  
Jacquelyn Chandler